

1906-028 Chancery Causes: J. P. Herndon vs. M. R. Kirk &c  
Lee Co.

Evans

CA-Debt  
T-Property

-Deed



To the Hon. H. A. W. Shuen, Judge of the  
Circuit Court for Lee County, Virginia;

Humbly complaining, your orator  
J. P. Herndon sheweth unto the court,  
that at the March term 1899 of the circuit  
Court of Lee County, he recovered a judgment  
against M. R. Kirk, J. W. Evans, and R. L. Evans  
for the sum of \$200<sup>00</sup> with interest from  
the first day of June 1897, and \$9.16 costs  
a copy of which is herewith filed, marked  
exhibit "A", and prayed to be read as a  
part of this bill, that no part or <sup>of</sup> ~~of~~ <sup>the</sup> ~~the~~ said  
of the said judgment hath ever been paid;  
that said judgment was duly docketed on  
the 27 day of March 1899, in the clerk's  
office of the County Court of Lee County;  
that there are no other judgments against  
the said M. R. Kirk, J. W. Evans, and R. L. Evans  
or either of them so far as your orator has  
been able to ascertain.

The said M. R. Kirk is seized and possessed  
in his own right of an undivided half interest  
in a certain tract of land containing about  
64 acres, and situated and being in the county  
of Lee, described in a deed to the said M. R.  
Kirk and Kirk from R. L. Evans and  
Sarah Evans, a copy of which deed is herewith



filed marked exhibit "B", and prayed to be read as a part of this bill.

And the said R. L. Evans is seized and possessed in his own right of a certain tract of Land in the Pocket-country of said county, described in a deed to the said R. L. Evans from a copy of which deed is filed herewith marked exhibit "C", and prayed to be read as a part of this bill.

Your orator avers and charges, that the rents and profits of the said lands will not in five years satisfy ~~this~~ judgment which he is advised is a lien thereon, and that he is therefore entitled to have the said lands sold, to satisfy his lien on ~~the~~ same.

In consideration whereof he prays that the said M. R. Kirk, J. W. Evans, and R. L. Evans be made defendants to this bill, and required to answer the same, but not upon oath, that being hereby waived; that proper process issue; that the said lands or so much thereof as will suffice to satisfy your orator's judgment, and the costs of suit and sale, be sold, and the proceeds thereof be applied to the payment of the said costs and judgment; and that all such other



further and general relief may be given  
as in the premises is just and right.  
And your orator will ever pray, etc.

J. C. Noel p. q.



Last March Term 1900  
 Clerk 8.04  
 J 1.50  
 S 1.50  
 atty 5.00  
 Cclrk 1.20

\$14.24  
 Cost 5.00  
 \$ 19.24  
 9.16  
 28.40

5.00  
 3.95  
 1.50  
 1.00  
 12.09  
 1.20  
 13.29

J. P. Herndon  
 vs Bill in Chancery

M. R. Kirk et al.

1899. 1st October rules bill  
 filed & presented and  
 Deere Nisi

" 2nd October rules D. N.  
 confirmed & Cause  
 Set for hearing



J. P. Herndon }  
vs } 22 Chancery.  
M. R. Kirk }

The amount of judgment and costs having been fully paid, and there remaining nothing further to be done in the premises, this case is ordered to be stricken from the docket.



J. P. Herndon  
vs { Decree  
      { final  
M. R. Kirk

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Entered in COB  
#8, page 149-

Enter this  
decree, this  
May 21, 1906  
H. A. W. Siler  
Judge



J. P. Herndon

vs

} J. & C. Lane

M. R. Kirk, R. L. & J. W. Edwards

This cause came on to be heard upon the bill of the plaintiff, and the exhibits filed therewith and was argued by counsel, and it appearing to the court that the defendants were duly summoned for more than 30 days before the term of the term of this court.

On consideration of which it is ordered adjudged and decreed that the plaintiff recover against the defendants \$104 <sup>00</sup> with interest thereon from the 10 day of March 1899 till paid, and the costs of this suit.

And it is further ordered and decreed that if the same be not paid within 30 days ~~days~~ after the 20<sup>th</sup> day of Nov. 1899, then J. C. Noel who is appointed a commissioner for the purpose will proceed at the front door of the court-house of this county on some court-day after first having advertised the place and terms of sale for at least 30 days on the front door of the court-house and in the vicinity of said land, to sell to the highest bidder on a credit of six and twelve months, the defendants' interest in the lands mentioned in the plaintiff's bill, or so much thereof as may be necessary to pay said debt and costs, and the said commissioner will require the costs of this suit and commission of sale to be paid down, and for the deferred payments he will take bond bonds with good security payable to himself as commissioner, with interest from date



and will report his action to this court  
and the cause is continued.

J. P. Herndon  
vs. Deere

M. R. Kirk et al

Entered  
18-05-84  
11/11/99

Entered on  
Chy. C. B. No 6  
P. 24 + 320-



Virginia

At a Circuit Court Continued and held for Lee County at the Court-house thereof, on Friday March the 10<sup>th</sup> 1899.

John P. Herndon

vs

M. R. Kirk, J. M. Evans  
and R. L. Evans

Plff

In Debt

Defls

The defendants not appearing after Plffs Costs being duly Summored; It is considered by the Court that the judgment obtained in the Clerk's office in favor of the plaintiff against the defendants for the sum of \$200.00 Two hundred dollars the amount of the debt in the declaration mentioned waiving homestead exemptions, and legal interest thereon from the 4<sup>th</sup> day of June 1897, until paid and the Costs be made final. Subject to the following Credits viz: Credit by \$45.00 Sept 28<sup>th</sup> 1897, and \$30.00 November the 15<sup>th</sup> 1897.

A Copy

Teste: A. B. Munsey Clerk



John P Herndon  
vs Copy of Judgment  
M. R. Kirk et al  
Exhibit "A"

Clerk for Copy 25<sup>cts</sup>



This Deed, made this 15<sup>th</sup> day of December in the year one thousand and eight hundred and ninety six, between R.L.Evans and Sarah E. Evans his wife of Lee County Virginia partys of the first part, and M.R.Kirk and Rebecky M.Kirk his wife and her heirs of the same place partys of the second part--Witnesseth: That in consideration of the sum of five hundred dollars (\$500 Dollars) in hand paid receipt of which is hereby acknowledged the said first partys do grant unto the said partys of the second part with General Warranty, all of a certain tract or parcel of land lying in the pocket country on Ely's creek, in said county, containing by plat and survey (64) sixty four acres, and further bounded and described as follows, to wit: Beginning on two white oaks, Pennington's corner N 2 1/2 E 61 1/2 poles to a stake on J.R.Kirk's line thence E 5 poles to a white oak & beach lower side of the road, N 5 E 18 poles to a gum N 48 1/2 E 19 1/4 poles to pointers on bank of Ely's creek, and up the same with its meanders N 58 E 21 1/2 poles N 55 E 25 1/2 poles N 72 3/4 E 38 poles to a maple & dogwood S 31 1/2 E 46 poles to a gum S.57 1/2 W 13 pole to a chestnut S.31 W 24 pole to two small hickorys and a chestnut on top of a ridge S 22 1/2 E 34 pole to a beech and oak on the south side of a branch S 64 W. 27 pole to a stone S 29 1/4 E 51 pole to a sarvice S 63 W 28 pole to a black oak and beach sapling on a spur N.79 W 14 pole to a white oak on same ridge N 34 1/2 W 47 pole to a buckeye, thence down the branch S 57 1/2 W 9 3/4 pole to a large maple S 61 W 14 pole to a white oak S 83 W 6 pole to a pine N 84 W 4 pole to a pine N 87 W 15 pole to the beginning to have and to hold the same to the said second partys their heirs and assigns forever The said partys of the first part covenant that they have the right to convey the said land to the grantee; that they have done no act to encumber the said land; that the grantee shall have quiet possession



of the said land, free from all encumbrances, and that they, the said partys of the first part, will execute such further assurance of the said land as may be requisite. Witness the following signature and seal.

R.L.Evans (Seal.)

Sarah Evans (Seal.)

State of Virginia, County of Lee to wit:

I, J.P.Myers a justice of the peace for the county aforesaid in the State of Virginia, do certify that R.L.Evans & Sarah Evans whose names are signed to the within writing bearing date on the 15 day of Dec.1896 have acknowledged the same before me in my County aforesaid. Given under my hand this 23 day of January 1897

J.P.Myers, J.P.

Memo.To be acknowledged before any officer authorized to take acknowledgments.

Virginia, Lee County to wit:

In the office of the Clerk of the County Court for said County the 29th day of July 1897 This Deed was presented and with the certificate annexed admitted to record at 11 o'clock A.M.

Teste: S.V.F.Richmond, Clerk.

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Virginia, Lee county, to wit:

I, B. M. Morgan, clerk of the county court for said county ~~do~~ do certify that the foregoing is a true copy of a deed from R.L.Evans and wife to M.R.Kirk and wife as the same appears of record in my office, in Deed Book No.32, page 595.

Given under my hand this 14<sup>th</sup> day of October, 1899.

B.M.Morgan, Clerk.



M. R. Kirk wife

From 3 Dec

R. L. Evans wife

Exhibit B

Order 6005



This Deed made this the 13<sup>th</sup> day of February AD 1884 by & between Martha J. Poteet (formerly Martha Russell- of the first part & Robert L. Evans and Sarah his wife of the 2nd part all of the County of Lee & State of Virginia, Witnesseth that the said Martha J. Poteet, (Formily Martha J. Russell, in consideration of the sum of \$400.00 Dollars in hand paid or secured to be paid doth give grant bargain sell and convey to the aforesaid Robert L. Evans & wife the receipt is hereby acknowledged a certain tract or parcel of land lying or being in the County & State aforesaid lying on the waters of Stone creek in the Pocket country & bounded as follows viz. Beginning a chestnut oak & pine at the west end of the yellow rock on the top of the Stone Mountain thence N 28 W 320 poles to a chestnut oak & two black gums on a ridge Then N 38 W 80 poles to three chestnuts and two Locusts on a ridge N 58 E 143 poles to two white oaks & maple by a path S 52 poles to a chestnut & Black oak on the top of a hill N 58 E 52 poles to a chestnut a servis on the top of a Ridge S 22 E 80 poles to two Black oaks on a ridge S 35 E 250 poles to four chestnut oaks on top of stone mountain, Thence with top of Stone mountain to the Beginning, Now the aforesaid Martha J. Poteet (Formily Martha J. Russell) only deeds or conveys unto Robert L. Evans & wife the part of land described in this deed what lyes North of Stone creek the creek with its meanderings to be the south line & the said John D. S. Russell reserves one half<sup>s</sup> the coal which is on this land it belonging to David Miller & so much of the other half<sup>s</sup> as the aforesaid John D. S. Russell may use for his own individual use & Also in consideration that Robert L. Evans & wife pay to Hannah & Jennie Taylo<sup>r</sup> the sum of twenty-five dollars and fifty cents with interest from the 17 day of Feb. 1882 till they respectively arrive at the age of twenty-one or till paid & a lien



is hereby Retained till the above sum is paid. To have & to hold the above described tract or parcel of land with all its appurtences in witness whereof the aforesaid Martha J.Poteet (formily Martha J.Russell binds herself to warrant generally this land witness whereof I have here unto signed my name and affixed my seal day & year first written.

Martha J.Poteet (Seal)

Virginia Lee County To wit:-

I Vincent H.Kelly commissioner in & for the county & state aforesaid do certify that Martha J.Poteet (Formily Martha J.Russell) whose name is signed to this deed bearing date Feb.13<sup>th</sup> 1884, personally appeared before me in my county aforesaid & acknowledged it to be her act & deed. Given under my hand this Feb 13<sup>th</sup> 1884.

V.H.Kelly, Comr in Chancery.

Virginia, Lee county court clerk's office the 17th day of June 1884.

The foregoing deed bearing date Feb.13<sup>th</sup> 1884, between Martha J.Poteet of the first part, and Robert L.Evans of the second part, both of Lee county Va.was this day filed in this office and admitted to record upon the certificate of V.H.Kelly a commissioner in chancery for the county court of Lee county Va.

Teste John R.Gibson clerk.

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Virginia, Lee county, to wit:

I, B.M.Morgan, Clerk of the county court for said county, do certify that the foregoing is a true copy of a deed from Martha J. Poteet to Robert L.Evans as the same appears of record in my office in Deed Book No.20, page 528.

Given under my hand this 14<sup>th</sup> day of October, 1899.

B.M.Morgan, Clerk.



R. L. Evans

From } Deed

Martha J. Poteet.

Exhibit - "6"

Collected 60cts



The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU THAT YOU SUMMON *M. R. Kirk, R. L. Evans*  
*and J. M. Evans*

to appear at the Clerk's office of the Circuit Court of the County of Lee at the court-house thereof, at the Rules to be holden for said Court, on the *1st* Monday in *October*, 189*9*, to answer a bill in chancery, exhibited against *them* in our Court by *J. P. Herndon*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *8th* day of *September* 189*9*, and in the 12 *4th* year of the Commonwealth.

*A. B. Munsey* Clerk.

A copy—Teste: \_\_\_\_\_ Clerk.



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J. P. Herndon  
VS. { SUBPOENA  
IN CHANCERY.

M. R. Kirk et als

J. L. Nael p. q.

To 1st Oct Rules. 1899.

CIRCUIT COURT.

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Sept 19 1899  
Executed by  
delivering a copy  
to M. R. Kirk B. L. Evans  
and J. W. Evans

E. S. Evans  
Deputy for

W. J. Milham

S. L. C.